

DATE 2-13-08

APPLICATION NUMBER 10/579,092

DOC CODE PET-DEC-01PE

DOC DATE 2-13-08

DELIVER THE ATTACHED FILE/DOCUMENT TO THE TC
SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE
INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS;
UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO
LATER THAN 16 WORK HOURS
FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN
ACCORDANCE WITH INSTRUCTIONS



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

13 FEB 2008

Harness, Dickey & Pierce, P.L.C.
P.O. Box 8910
Reston, VA 20195

In re Application of :
RHYMAN, Morgan :
U.S. Application No.: 10/579,092 :
PCT No.: PCT/SE04/01595 :
International Filing Date: 04 November 2004 :
Priority Date: 14 November 2003 :
Attorney's Docket No.: 10400-000227/US :
For: A DEVICE FOR CONNECTING TWO RIGID :
TUBULAR OBJECTS COMPRISING A MALE :
PART AND A FEMALE PART :

DECISION ON PETITION TO
WITHDRAW HOLDING OF
ABANDONMENT
(37 CFR 1.181)

This decision is issued in response to the "Petition Under 37 CFR § 1.181 to Withdrawal Holding Of Abandonment" filed on 31 December 2007. No petition fee is required.

BACKGROUND

On 04 November 2004, applicants filed international application PCT/SE04/01595 which claimed a priority date of 14 November 2003 and which designated the United States. On 26 May 2005, a copy of the international application was transmitted to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB"). The deadline for payment of the basic national fee was 30 months from the priority date, i.e., 14 May 2006.

On 12 May 2006, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, among other materials, payment of the basic national fee, a copy of the international application, and a preliminary amendment.

On 14 December 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 was required.

On 20 December 2007, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned with respect to the United States for failure to respond to the Notification Of Missing Requirements.

On 31 December 2007, applicant filed the petition considered herein. The petition asserts that applicants never received the Notification Of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 14 December 2006, and that the holding of abandonment should therefore be withdrawn.

DISCUSSION

Section 711.03(c)(II) of the MPEP sets forth the requirements for a grantable petition to confirm the failure to receive an Office communication:

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Here, the petition contains the required statements from the practitioner that the Notification Of Missing Requirements was not received and that a search of the file jacket and docket records indicates that the Notification Of Missing Requirements was not received. Applicants have also attached a copy of docket records which would have included a reference to the Notification Of Missing Requirements had such Notification been received.

Applicants have therefore satisfied the requirements of a grantable petition to establish the failure to receive the Notification Of Missing Requirements mailed 14 December 2006.

The declaration submitted by applicants with the present petition complies with 37 CFR 1.497 and the present submission also included the required surcharge payment. Accordingly, applicants have now submitted the requirements set forth in the Notification Of Missing Requirements.

CONCLUSION

Applicants' petition to confirm that the Notification Of Missing Requirements mailed 14 December 2006 was not received is GRANTED.

Applicant has now submitted the materials required by the Notification Of Missing Requirements, that is, a declaration acceptable under 37 CFR 1.497 and the surcharge for filing the declaration later than thirty months after the priority date. Accordingly, there is no need to re-mail the Notification Of Missing Requirements.

This application is being forwarded to the National Stage Processing Branch of the Office Of PCT Operations for further processing treatment in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 31 December 2007.

Anthony Smith

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3298
Facsimile: (571) 273-0459